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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,751	09/18/2003	Paul Desmond Daly	2002P16918US01	4126
7590		05/19/2005	EXAMINER	
Elsa Keller		SAN MARTIN, EDGARDO		
Siemens Corporation				
Intellectual Property Department		ART UNIT		
170 Wood Avenue South		PAPER NUMBER		
Iselin, NJ 08830		2837		
DATE MAILED: 05/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

ETC

<b>Office Action Summary</b>	<b>Application No.</b> 10/664,751	<b>Applicant(s)</b> DALY ET AL.	
	<b>Examiner</b> Edgardo San Martin	<b>Art Unit</b> 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1, 5 and 10 are objected to because of the following informalities:
  - In claims 1 and 10, line 7 should read - - passages - - instead of "passageways";
  - Claim 5 should depend upon claim 4 and not claim 1;
  - In claims 5 and 6 before the word "washer" the word - -windshield- - should be inserted, and after the word "washer" the word - -fluid- - should be inserted;
  - In claims 5 and 6, line 2 after "power steering" the word - - fluid - - should be inserted.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 4, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Trochon (EP 1070903) (Trochon US 6,772,858 will be used as the English equivalent).

With respect to claim 1, Trochon teaches a Herschel-Quincke tube arrangement for a vehicle comprising a first passageway (Fig.3a, Item 5) having a fluid inlet and a fluid outlet, and a second passageway (Fig.3a, Item 6) located adjacent the first passageway, the second passageway being fluidly connected to the first passageway at first and second spaced apart junctions (Fig.3a, Items 6a and 6b) with the second passageway divided by the junctions into first, second and third passages (Fig.3a, Items 6, 7 and 8), the second passageway including first and second terminal ends and wherein portions of the first, second and third passages are oriented in a substantially similar direction to that of the first passageway to form a substantially rectangular configuration (Fig.6, Item 20) (Col.2, Line 28 – Col.3, Line 52).

With respect to claims 2 - 4, 8 and 9, the Examiner considers that Trochon teaches the limitations described in the claims (Figs.3a and 6; Col.1, Lines 4 – 8 and Col.2, Line 28 – Col.3, Line 52).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5 – 7 and 10 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trochon (EP 1070903) (Trochon US 6,772,858 will be used as the English equivalent).

With respect to claims 10 and 16, Trochon teach the limitations discussed in a previous rejection, but fail to disclose Herschel-Quincke tube arrangement comprising a specific shape configuration.

The Examiner takes Official Notice that it is well known in the art of metal and plastic working to provide a tube arrangement with a desired shape configuration in order to comply with working area shape and space constraints.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a design wherein portions of the first and third passageways are oriented in a substantially similar direction to that of the first passageway and portions of the second passage are oriented in a direction substantially transverse to that of the first passageway to form a substantially flat configuration; or wherein the first passageway having U-shape and extending down a side of the shroud and the second passageway being bent and doubling back such that the second passageway is located around remaining sides of the shroud, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. Furthermore, Trochon teaches a configuration comprising the sections of the Herschel-Quincke tube arrangement being bent to a desired shape without affecting the sound attenuation characteristics (Fig.6).

With respect to claims 11, 12, 14, 15, 17, 18, 20 and 21, the Examiner considers that Trochon teaches the limitations described in the claims (Figs.3a and 6; Col.1, Lines 4 – 8 and Col.2, Line 28 – Col.3, Line 52).

With respect to claims 7, 13 and 19, the Examiner considers that it would have been an obvious matter of design choice to constructed the arrangement from plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With respect to claims 5 and 6, the Examiner considers that it is well known in the art of automobile design and building to include a windshield washer fluid bottle and a power steering fluid reservoir under the vehicle hood as a component.

### ***Conclusion***

4. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

### ***Contact Information***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2837

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edgardo San Martín  
Primary Examiner  
Art Unit 2837  
Class 181  
May 16, 2005